



**FINAL ADMINISTRATIVE DECISION  
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Mark Odeen  
DOCKET NO.: 06-29937.001-R-1  
PARCEL NO.: 17-04-122-107-0000

The parties of record before the Property Tax Appeal Board are Mark Odeen, the appellant, by attorney Adam E. Bossov, of Law Offices of Adam E. Bossov, P.C. in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$ 34,160  
**IMPR.:** \$ 176,793  
**TOTAL:** \$ 210,953

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a 6,100 square foot land parcel improved with three distinct dwellings thereon. The first improvement contains a three-story, 119-year old, masonry, multi-family dwelling with 6,512 square feet of living area, a partial basement, and six apartments, therein. The second improvement contains a two-story, 118-year old, frame, multi-family dwelling with 2,200 square feet of living area, a full basement and two apartments, therein. The third improvement contains a two-story, masonry, 119-year old, single-family dwelling with 2,094 square feet of living area.

The appellant's appeal is based solely on unequal treatment in the assessment process of the first improvement on the subject property.

As to the equity argument, the appellant submitted assessment data, descriptions, and photographs of the subject and four suggested comparables located from a three to six block distance of the subject property. They are improved with a two-story or three-story, multi-family dwelling of masonry exterior construction. They range: in units from two to three

apartments; in age from 9 to 123 years; in improvement size from 6,000 to 7,329 square feet of living area; and in improvement assessments from \$12.31 to \$15.35 per square foot of living area. The subject's first improvement contains an improvement assessment of \$104,935 or \$16.11 per square foot.

In addition, the appellant's attorney developed an actual income and expense analysis for the subject, while submitting copies of the IRS income and expense loss statements for tax years 2003 through 2005. The attorney opined that un-stabilized expenses were estimated to be \$24,000. He added replacement for reserves, management fees of 5% and vacancy loss of 10% resulting in the subject's stabilized operating expenses of \$39,000. Deducting the expenses from the gross income of \$75,000 resulted in a net operating income of \$36,000. Applying a capitalization rate of 12.30% and a tax load of 2.30% resulted in an estimate of value at \$293,000. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$218,208 reflects a total improvement assessment for all three improvements of \$184,048. In addition, the board submitted data and descriptions regarding four suggested comparables for each of the subject's three improvements. As to the first improvement, the properties are improved with a three-story, masonry, multi-family dwelling. They range: in units from three to six apartments; in age from 37 to 118 years; in improvement size from 3,787 to 6,480 square feet of living area; and in improvement assessments from \$9.24 to \$17.49 per square foot of living area.

As to the second improvement on the subject property, the four suggested comparables range in improvement assessments from \$17.00 to \$26.58 per square foot, while this subject's improvement contains an improvement assessment of \$20.17 per square foot of living area. As to the third improvement on the subject property, the four suggested comparables range in improvement assessments from \$28.79 to \$37.36 per square foot, while the subject's third improvement, the single-family dwelling, contains an improvement assessment of \$16.59 per square foot. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant contends unequal treatment in the subject's improvement assessment as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data, the PTAB finds the appellant has met this burden and that a reduction is warranted.

As to the equity argument, the PTAB accords the comparables #3 and #4 submitted by the appellant as well as comparable #1 submitted by the board of review most weight due to the similarity to the subject in style and size. The comparables range in improvement assessments from \$9.24 to \$15.35 per square foot of living area, while the subject's assessment for the first improvement at \$16.11 per square foot is above the range established by these comparables.

The PTAB finds that the comparables submitted by the board of review for the second and third improvements on the subject property support the current improvement assessments.

As a result of this analysis, the PTAB finds the appellant has adequately demonstrated that the subject's first improvement was inequitably assessed by clear and convincing evidence and that a reduction is warranted.

When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the Board concludes that the evidence indicates a reduction is not warranted.

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses or unsupported estimates of income unconvincing. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

It is the value of the "tract or lot of real property" property which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value". . . Many factors may prevent a property owner from realizing an income from property, which accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes." Springfield Marine Bank v. Property Tax Appeal Board 44 Ill.2d 428 at 430-431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that

the subject's actual income and expenses were reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant failed to follow this procedure in developing the income approach to value; therefore, the PTAB gives this argument no weight.

As a result of this analysis, the PTAB finds the appellant has not adequately demonstrated that the subject dwelling's market value was incorrect by a preponderance of the evidence and a reduction is not warranted on this issue.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

*Ronald R. Cuit*

Chairman

*Frank J. Huff*

Member

Member

*Mario M. Louie*

*Shawn R. Lerski*

Member

Member

DISSENTING: \_\_\_\_\_

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: May 20, 2011

*Allen Castrovillari*

Clerk of the Property Tax Appeal Board

**IMPORTANT NOTICE**

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.